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By ECF

June 14, 2019

Hon. Edgardo Ramos  
United States District Judge  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, NY 10007

**Re: SEC v. Honig, et al., Case No. 1:18-cv-08175-ER (S.D.N.Y.)**

Dear Judge Ramos:

We write to advise the Court that the SEC has failed to produce a single document to Mr. Ladd in response to the First Request for Production of Documents. Three weeks have now elapsed since the SEC's production was due, and the SEC has ignored our requests for a date certain by which its production will be made. Given that the complaint in this case was first filed in September 2018, and the amended complaint filed in April 2019, we ask that the Court order the SEC to produce its investigative file forthwith.

Mr. Ladd's request is based on the parties' and the Court's discussions at the scheduling conference and the resulting scheduling order. At the hearing, the Court observed that "the SEC has now agreed that document production can begin immediately." May 15 Hearing Tr. at 8. The Court also noted that it "assum[ed] that [the SEC] will produce [documents] within 30 days [of Defendants' requests for production] or sometime shortly thereafter." *Id.* at 18 (emphasis added). The SEC represented to the Court that it had already begun preparing its production. *Id.* at 14 (explaining that the SEC would be producing 600,000 documents and 600,000 additional "operating system files"). The Court specifically invited any Defendant to "come back" if there were issues with respect to the timeliness of the SEC's production of documents. *Id.* at 18.<sup>1</sup>

The SEC's responses to Mr. Ladd's requests for production were due on May 23, 2019. While the SEC served responses and objections on that date which acknowledged that the SEC was required to produce its entire investigative file, the SEC did not produce *any* documents on May 23 and did not inform Mr. Ladd of any planned date for production. See Ex. A.

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<sup>1</sup> The SEC has consistently attempted to delay any production of documents to Mr. Ladd. During the parties' Rule 26(f) conference, the SEC sought to delay its production of documents until after Labor Day. Despite being served with requests for production of documents on April 23, 2019, the SEC continued to refuse to confirm that it would produce documents prior to September. Then, at the initial conference, the SEC relented and for the first time agreed to respond prior to Labor Day, much to Defendants' surprise. Hearing Tr., dated May 15, 2019 ("May 15 Hearing Tr."), at 6 (Counsel for Mr. Ladd: "[T]here was a lack of transparency from the SEC as to what their position was actually going to be . . . d[e]spi[t]e numerous requests by us.").



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Since then, nothing has transpired that would justify the SEC's continued failure to produce documents in accordance with its discovery obligations and the order of this Court. The parties agreed to a protective order and confidentiality order weeks ago. Mr. Ladd even provided the SEC with a hard drive for its production.

Nevertheless, the SEC has continued its pattern of delay and obfuscation. On June 11, Mr. Ladd requested that the SEC confirm by June 13 that it would make its production by June 14. The SEC responded with complaints about the metadata that accompanied the production Mr. Ladd timely made to the SEC in response to its request. Ex. B. But the SEC ignored our request that the production be made by June 14 and did not provide any date by which the production would be made.

The SEC's foot-dragging and delaying tactics in a case it chose to initiate with great fanfare almost nine months ago have seriously prejudiced Mr. Ladd and are unbecoming of a government agency. We respectfully ask that the Court order the SEC to make its production forthwith.

Respectfully,

/s/ Randall R. Lee

Randall R. Lee

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